REMARKS

Applicants affirm the election of claims 1-16 and 46-68 without traverse. Claims 17-39 and 69-77 have been canceled in favor of filing divisional applications.

Claims 1-16 and 40-68 stand rejected under 35 USC § 102(b) as being anticipated by Jernigan, et al. and Ekart, et al. For the reasons which follow, Applicants respectfully request favorable reconsideration of the rejected claims in view of the following remarks.

Claim 1 calls for the features of obtaining a polyester polymer melt phase product having an acceptable b* color in the range of -5 to +5 in an antimony catalyzed system, in which the ItV made in the melt phase is at least 0.75 dL/g.

Jernigan et al. disclose antimony catalyzed polyester polymers made in a melt phase to a maximum IV below about 0.7. See column 8, lines 9-10. This was deemed necessary in order to maintain good color. The IV is not increased beyond 0.7 until precursor pellet is solid state polymerized to an ItV up to about 1.2 (an IhV of 0.7 corresponds to an ItV of about 0.73 to no more than 0.74). See Column 8, lines 10-20. This is confirmed in the examples set forth in Jernigan et al. Example 5 describes a polyester polymer precursor made in the melt phase to an IV of 0.552. Examples 6-14 likewise describe polyester polymers made to an IV of up to about 0.567. Thereafter, the polymer in the melt phase was solid state polymerized up to an IV ranging from 0.75 to 0.77 dL/g. See column 15, lines 27-30. See also examples 15 et. seq.

Jernigan et al. does not anticipate claims 1-16 because it does not disclose the feature of polycondensing the *melt* to an ItV of at least 0.75 dL/g while simultaneously obtaining a b* color of -5 to + 5. Jernigan et al. also does not anticipate claims 40-45 because it does not disclose a reaction time of 100 minutes or less between an ItV of 0.45 and an ItV of 0.70 dL/g. The precursors made in the working examples during the polymerization stage the melt phase polycondensation were made to an ItV of about no greater than 0.567.

Jernigan et al. does not anticipate claims 46-50 because it does not disclose polyester polymers which have been partially crystallized to a degree of crystallinity of at

least 25 percent which have an ItV of at least 0.70 and have *not* been solid state polymerized. Furthermore, Jernigan et al. does not disclose the combination of features regarding the b* color and L* color of such in solid state polyester polymers which have been crystallized and have a high ItV of at least 0.70 dL/g.

Jernigan et al. does not anticipate claims 51-65 because it does not disclose a method for polycondensing the melt in the melt phase until the ItV of the melt reaches at least 0.75 dL/g.

Jernigan et al. does not anticipate claims 66-68 because Jernigan et al. does not disclose the manufacture of polyester polymer from a melt phase production having an ItV. of at least 0.75 dL/g obtained *without* solid state polymerization.

For these reasons, Applicants respectfully request withdrawal of the rejections under 35 USC § 102 (b) over Jernigan et al.

Ekart et al. likewise does not anticipate any of the rejected claims because it does not disclose the manufacture of a polyester polymer made to the claimed high ItV values of at least 0.75 dL/g in a melt phase production. Ekart et al. teaches that:

> "We find, however, that when producing precursor with lower intrinsic viscosities, higher production rates can be achieved, giving improved process performance, an advantage of the present invention. In addition, intrinsic viscosity of the polyester precursor should be less than 0.70 dL/g, preferably less than 0.65 dL/g, more preferably less than 0.60 dL/g." Column 3, lines 59-65.

Thus, Ekart et al., like Jernigan et al., not only fail to disclose melt phase precursors made to the claimed high ItV, but teach that such high ItV should be avoided when manufactured in the melt phase.

Likewise, Ekart et al. does not disclose the claimed short reaction times or an ItV of at least 0.45 dL/g to at least 0.70 dL/g to 0.90 dL/g within the claimed reaction time, and further does not disclose a partially crystallized polymer having the claimed L* and b* colors made without solid state polymerizing the polymer.

For these reasons, Applicants also respectfully request withdrawal of the rejection over Ekart et al.

Claims 40-68 stand provisionally rejected on the ground of nonstatutory obviousness type double patenting as being unpatentable over claims 1-22 of

co-pending application number 11/154,208. Applicants respectfully request abeyance to the requirement to file a terminal disclaimer until an indication of allowability is issued in the present application so as to determine the final status of the claims.

The Examiner is invited to contact the undersigned at the number below with any questions related to the further prosecution of this application.

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2/23/2006
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